

## Message Text

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PAGE 01 BERLIN 01666 211205Z

41

ACTION EUR-25

INFO OCT-01 ISO-00 CIAE-00 DODE-00 PM-07 H-03 INR-11 L-03

NSAE-00 NSC-07 PA-04 RSC-01 PRS-01 SP-03 SS-20

USIA-15 ACDA-19 IO-14 NIC-01 DRC-01 /136 W

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R 211150Z SEP 74

FM USMISSION BERLIN

TO AMEMBASSY BONN

INFO SECSTATE WASHDC 4028

C O N F I D E N T I A L BERLIN 1666

E.O. 11652: GDS

TAGS: PGOV, WB, GE, GW

SUBJECT: BRUECKMANN--SENAT SUGGESTS AMENDMENT OF  
BK/O

REF: A) BERLIN 1647; B) BONN 14708

1. SENAT HAS PASSED TO ALLIES LETTER FROM HEAD OF SENAT  
CHANCELLERY LEGAL DEPARTMENT (DR. HEIDELMEYER) QUESTIONING  
DRAFT BK/O. LETTER NOTES THAT INTENTION IS EXPRESSED IN  
DRAFT BK/L TO RESERVE ALLIED RIGHT TO DEPRIVE OF EFFECT  
DECISIONS TAKEN UNDER AMENDED 1953 LAW ON INNER-  
GERMAN JUDICIAL COOPERATION IN CRIMINAL MATTERS IN EVENT  
SUCH DECISIONS ARE NOT IN ACCORD WITH ALLIED ORDERS AND  
DIRECTIVES. SENAT ARGUES THAT NUMBERED SUBPARA 2 OF BK/O  
IN WHICH THIS DECISION IS TO BE REFLECTED IS FORMULATED  
SO THAT FIRST SENTENCE CAN BE CONSIDERED TO HAVE  
MEANING INDEPENDENT OF SECOND SENTENCE. SUCH INTERPRETA-  
TION, SENAT ARGUES, "IS OBVIOUSLY NOT IN ACCORDANCE WITH  
INTENTIONS OF KOMMANDATURA AND COULD LEAD TO DIFFICULTIES  
OF INTERPRETATION AND LEGAL UNCERTAINTY WHICH SURELY ARE  
NOT MEANT."

2. SENAT ACCORDINGLY SUGGESTS THREE ALTERNATIVE REVIUONS  
OF BK/O:

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PAGE 02 BERLIN 01666 211205Z

A. DELETION OF FIRST SENTENCE OF SUBPARA 2 OF BK/O;

B. SUBSTITUTION OF SECOND PARA OF DRAFT BK/L FOR  
SUBPARA 2 OF BK/O WITH DELETION OF WORD "CONSEQUENTLY";

C. ADDITION OF PHRASE "IN THOSE CASES THE ALLIED  
KOMMANDATURA THEREFORE . . ." TO SECOND SENTENCE OF  
SUBPARA 2 OF BK/O.

3. COMMENT: SENAT CONCERN APPEARS TO BE THAT TWO SENTENCES  
OF SUBPARA 2 OF BK/O MAY BE READ AS SAYING INDEPENDENT  
THINGS: A) THAT DECISIONS TAKEN UNDER LAW ARE EFFECTIVE  
IN BERLIN ONLY TO EXTENT THEY ARE CONSISTENT WITH ALLIED  
ORDERS AND DIRECTIVES; AND B) THAT ALLIES RESERVE RIGHT TO  
TAKE WHATEVER ACTIONS THEY DEEM APPROPRIATE IN RELATION TO  
ANY DECISION TAKEN UNDER LAW. SENAT APPARENTLY FEELS THAT  
FIRST SENTENCE HAS IMPLICATION THAT, REGARDLESS OF WHETHER  
OR NOT ALLIES INTERVENE, THERE IS POSSIBILITY THAT DECISION  
TAKEN UNDER NEW LAW MAY NOT BE FULLY IN FORCE IN BERLIN  
AND THAT SECOND SENTENCE HAS IMPLICATION THAT ALLIES MAY  
CONSIDER IT NECESSARY TO INTERVENE IN SOME DECISIONS  
REGARDLESS OF WHETHER OR NOT THEY ARE IN ACCORDANCE WITH  
ALLIED ORDERS AND DIRECTIVES. WE ASSUME BONN GROUP WILL  
WISH TO CONSIDER MERITS OF SENAT SUGGESTIONS. KLEIN

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## Message Attributes

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**TAGS:** PGOV, WB, GC, GE, (BRUECKMANN, INGRID)  
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